

BURSOR & FISHER, P.A.

L. Timothy Fisher (State Bar No. 191626)
Joshua B. Glatt (State Bar No. 354064)
1990 North California Blvd., 9th Floor
Walnut Creek, CA 94596
Telephone: (925) 300-4455
Facsimile: (925) 407-2700
E-mail: ltfisher@bursor.com
jglatt@bursor.com

GUCOVSKI ROZENSHTEYN, PLLC.

Adrian Gucovski (*pro hac vice* forthcoming)
Benjamin Rozenshteyn (*pro hac vice* forthcoming)
140 Broadway, Suite 4667
New York, NY 10005
Telephone: (212) 884-4230
Facsimile: (212) 884-4230
E-mail: adrian@gr-firm.com
ben@gr-firm.com

Attorneys for Plaintiff Kristin Cobbs

[Additional counsel listed on Signature Page]

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

In re VNGR BEVERAGE, LLC LITIGATION

Case No. 4:24-cv-03229-HSG

CLASS ACTION

**JOINT SCHEDULING STIPULATION
AND ORDER AS MODIFIED TO
CONSOLIDATE RELATED CASE,
SET DEADLINE FOR AMENDING
COMPLAINT, AMEND BRIEFING
SCHEDULE, AND CONTINUE CASE
MANAGEMENT CONFERENCE**

Dept: Courtroom 2
Judge: Judge Haywood S. Gilliam, Jr.

MEGAN WHEELER, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

VNGR BEVERAGE, LLC

Defendant.

Case No. 4:24-cv-04396-HSG

1 Pursuant to Civil Local Rules 16-2 and 7-12, Plaintiffs Kristin Cobbs, Carol Lesh, and
2 Sarah Coleman (“Plaintiffs”) and Defendant VNGR Beverage, LLC d/b/a Poppi (“Defendant” or
3 “Poppi,” together with “Plaintiffs,” the “Parties”) hereby jointly stipulate and agree as follows:

4 WHEREAS, on May 29, 2024, a putative class action was filed in this Court against Poppi
5 alleging violations of consumer protection laws, captioned *Cobbs v. VNGR Beverage, LLC*, Case
6 No. 4:24-cv-03229-HSG (the “*Cobbs Action*”);

7 WHEREAS, on May 29, 2024, a substantially similar putative class action, involving the
8 same questions of law and fact, was filed in the Northern District of California, captioned *Lesh, et*
9 *al. v. VNGR Beverage, LLC*, Case No. 3:24-cv-03612-SK (the “*Lesh Action*”);

10 WHEREAS, on June 25 and 27, 2024, the Court entered Orders relating (ECF No. 18) and
11 then consolidating (ECF No. 22) the *Lesh Action* to the *Cobbs Action* (recaptioned as “*In re VNGR*
12 *Beverage LLC, Litigation*”) and set deadlines for filing a consolidated amended complaint and
13 related responsive filings;

14 WHEREAS, on July 19, 2024, a third substantially similar putative class action, involving
15 the same questions of law and fact, was filed in the Northern District of California, captioned
16 *Megan Wheeler v. VNGR Beverage LLC*, Case No. 4:24-cv-04396-HSG (the “*Wheeler Action*”);

17 WHEREAS, on July 23, 2024, plaintiffs in the *Wheeler Action* filed an administrative
18 motion to relate the *Wheeler Action* to the *In re VNGR Beverage, LLC Litigation Action* pursuant
19 to Civil Local Rules 3-12(a) and 7-11 (ECF No. 28) because these actions involve identical
20 questions of law and fact and the same conduct by the same Defendant;

21 WHEREAS, on July 25, 2024, Plaintiffs in the *Cobbs* and *Lesh* Actions filed a
22 Consolidated Amended Complaint;

23 WHEREAS, on August 9, 2024, the Court entered a Related Case Order (ECF No. 31)
24 relating the *Wheeler Action* to the *In re VNGR Beverage LLC, Litigation Action*;

25 WHEREAS, cases pending before the same judge may be consolidated under Federal Rule
26 of Civil Procedure 42(a) if the actions involve a common question of law or fact;

27 WHEREAS, to advance the interests of judicial economy and efficiency, prevent
28 duplication, and preserve the Court’s and Parties’ Resources, the Parties, therefore, respectfully

1 submit that consolidation of the *Wheeler* Action with the *In re VNGR Beverage LLC, Litigation*
2 Action is appropriate;

3 WHEREAS, the Parties agree that if the cases are consolidated, Plaintiffs will accordingly
4 file a consolidated amended complaint for all three consolidated Actions;

5 WHEREAS, the Parties agree that Defendant need not answer, move, or otherwise respond
6 to the currently filed complaints in the *Cobbs* Action, *Lesh* Action, and *Wheeler* Action, and should
7 instead respond to the consolidated amended complaint; and

8 WHEREAS, an initial case management conference is presently set in the *Wheeler* action
9 for October 29, 2024 at 2:00 p.m., and Defendant's Answer to or Motion to Dismiss the
10 Consolidated Complaint is due September 9, 2024.

11 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties
12 hereto, through their undersigned counsel, as follows:

13 1. Pursuant to Civil L.R. 3-12(f)(3), the case originally captioned *Megan Wheeler v.*
14 *VNGR Beverage LLC*, Case No. 4:24-cv-04396-HSG is hereby consolidated with the case
15 captioned *In re VNGR Beverage, LLC Litigation*, Case No. 4:24-cv-03229-HSG.

16 2. Pursuant to Federal Rule of Civil Procedure Rule 42(a), the above-captioned actions
17 shall be consolidated for all purposes, including, without limitation, discovery, pretrial
18 proceedings, and trial (the "Consolidated Action").

19 3. Every pleading filed in the Consolidated Action shall be filed under Case No. 4:24-
20 cv-03229-HSG and shall bear the *In re VNGR Beverage, LLC Litigation* caption.

21 4. Pursuant to FRCP 23(g) and subject to the Court's approval, Bursor & Fisher, P.A.,
22 and Gutride Safier LLP will serve as co-lead interim class counsel in the consolidated action.

23 5. Plaintiffs shall file a consolidated amended complaint by August 20, 2024.

24 6. Defendant need not answer, move, or otherwise respond to the currently pending
25 complaints in the *Wheeler* or *In re VNGR Beverage, LLC Litigation* Actions.

26 7. Defendant shall respond to the to-be-filed second consolidated amended complaint
27 by September 23, 2024.

28 8. If Defendant ultimately files a motion to dismiss the second consolidated amended

1 complaint, Plaintiffs will file an opposition to the motion to dismiss by October 21, 2024, and
2 Defendant will file a reply to the opposition by November 12, 2024.

3 9. The Court may reset the initial case management conference in *Wheeler*, currently
4 scheduled for October 29, 2024 at 2:00 p.m., to a later date set by the Court.

5 10. The Parties are not waiving any rights, claims, or defenses of any kind except as
6 expressly stated herein, and the Parties reserve the right to seek further extensions of time as
7 circumstances may warrant, subject to the Court's approval.

8
9 Dated: August 20, 2024

Respectfully submitted,

10 **BURSOR & FISHER, P.A.**

11 By: /s/ L. Timothy Fisher

12 L. Timothy Fisher (State Bar No. 191626)
13 Joshua B. Glatt (State Bar No. 354064)
14 1990 North California Blvd., Suite 940
Walnut Creek, CA 94596
15 Telephone: (925) 300-4455
Facsimile: (925) 407-2700
16 E-mail: ltfisher@bursor.com
jglatt@bursor.com

17 Dated: August 20, 2024

GUCOVSKI ROZENSHTEYN, PLLC.

18 By: /s/ Adrian Gucovski

19 Adrian Gucovski (*pro hac vice* forthcoming)
20 Benjamin Rozenshteyn (*pro hac vice* forthcoming)
140 Broadway, Suite 4667
21 New York, NY 10005
Telephone: (212) 884-4230
22 Facsimile: (212) 884-4230
E-mail: adrian@gr-firm.com
23 ben@gr-firm.com

24 *Attorneys for Plaintiff Kristin Cobbs*

25 Dated: August 20, 2024

GUTRIDE SAFIER LLP

26 By: /s/ Anthony J. Patek

27 Seth A. Safier (State Bar No. 197427)
28 Marie A. McCrary (State Bar No. 262670)

Anthony J. Patek (State Bar No. 228964)
100 Pine Street, Suite 1250
San Francisco, CA 94111
E-mail: seth@gutridesafier.com
marie@gutridesafier.com
anthony@gutridesafier.com

*Attorneys for Plaintiffs Carol Lesh and
Sarah Coleman*

Dated: August 20, 2024

KAPLAN FOX & KILSHEIMER LLP

By: /s/ Matthew B. George

Laurence D. King (SBN 206423)
Matthew B. George (SBN 239322)
Blair E. Reed (SBN 316791)
Clarissa R. Olivares (SBN 343455)
1999 Harrison Street, Suite 1560
Oakland, California 94612
Telephone: (415) 772-4700
Facsimile: (415) 772-4709
E-mail: lking@kaplanfox.com
mgeorge@kaplanfox.com
breed@kaplanfox.com
colivares@kaplanfox.com

Attorneys for Plaintiff Megan Wheeler

DATED: August 20, 2024

COOLEY LLP

By: /s/ Michelle C. Doolin

Michelle C. Doolin
MEGAN L. DONOHUE (266147)
(mdonohue@cooley.com)
VIVIENNE A. PISMAROV (345611)
(vpismarov@cooley.com)
10265 Science Center Drive
San Diego, CA 92121-1117
Telephone: (858) 550-6000
Facsimile: (858) 550-6420

DARINA A. SHTRAKHMAN (324109)
(dshtrakhman@cooley.com)
3 Embarcadero Center, 20th Floor
San Francisco, CA 94111
Telephone: (415) 693-2000
Facsimile: (415) 693-2222

*Attorneys for Defendant
VNGR BEVERAGE, LLC d/b/a POPPI*

SIGNATURE ATTESTATION

I, L. Timothy Fisher, as the ECF user and filer of this document, attest pursuant to N.D. Cal. L.R. 5(i)(3) that each of the other signatories have concurred in the filing of the document.

/s/ L. Timothy Fisher

L. Timothy Fisher

ORDER AS MODIFIED

Having considered the parties' Joint Stipulation and good cause appearing, the Court hereby orders as follows:

1. Pursuant to Civil L.R. 3-12(f)(3), the case originally captioned *Megan Wheeler v. VNGR Beverage LLC*, Case No. 4:24-cv-04396-HSG is hereby consolidated with the case captioned *In re VNGR Beverage, LLC Litigation*, Case No. 4:24-cv-03229-HSG.

2. Pursuant to Federal Rule of Civil Procedure Rule 42(a), the above-captioned actions shall be consolidated for all purposes, including, without limitation, discovery, pretrial proceedings, and trial (the "Consolidated Action").

3. Every pleading filed in the Consolidated Action shall be filed under Case No. 4:24-cv-03229-HSG and shall bear the *In re VNGR Beverage, LLC Litigation* caption.

4. Pursuant to FRCP 23(g), Bursor & Fisher, P.A., and Gutride Safier LLP will serve as co-lead interim class counsel in the consolidated action.

5. Plaintiffs shall file a consolidated amended complaint by August 20, 2024.

6. Defendant need not answer, move, or otherwise respond to the currently pending complaints in the *Wheeler* or *In re VNGR Beverage, LLC Litigation* Actions.

7. Defendant shall respond to the second consolidated amended complaint by September 23, 2024.

8. If Defendant ultimately files a motion to dismiss the Second Consolidated Amended Complaint, Plaintiffs will file an opposition to the motion to dismiss by October 21, 2024, and Defendant will file a reply to the opposition by November 12, 2024.


9. The Parties are not waiving any rights, claims, or defenses of any kind except as expressly stated herein, and the Parties reserve the right to seek further extensions of time as circumstances may warrant, subject to the Court's approval.

10. The Clerk is directed to administratively close the later-filed civil action, Case No. 24-cv-04396-HSG.

//

IT IS SO ORDERED.

Date: 8/21/2024


Hon. Judge Haywood S. Gilliam, Jr.
United States District Court Judge